

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SALIOU DIAW, individually,

Plaintiff,

v.

KATIE ANN LLC, a Foreign Limited
Liability Company, a subsidiary and owned
and operated by AMERICAN SEAFOODS
COMPANY LLC, a Foreign Limited Liability
Company, and a subsidiary of AMERICAN
SEAFOODS GROUP, a Foreign Limited
Liability Company,

Responding Defendants.

Civil Action No. 2:18-cv-1499 JCC

**DEFENDANTS' ANSWER TO
PLAINTIFF'S COMPLAINT FOR
DAMAGES**

Defendants AMERICAN SEAFOODS COMPANY LLC, KATIE ANN, LLC
(hereinafter collectively "Responding Defendants"), and AMERICAN SEAFOODS GROUP,
LLC by and through its attorneys of record, answers the allegations contained in Plaintiff's
Complaint for Damages as follows:

I. JURISDICTION AND VENUE

1.1 Answering paragraph 1.1 of the Complaint, Responding Defendants deny
Plaintiff is currently a seaman, had any history as a seaman, or is one known. Nevertheless,

1 Responding Defendants admit seaman status for the purposes of jurisdiction.

2 1.2 Responding Defendants admit that American Seafoods Company LLC, is a
3 foreign limited liability company, but deny the remaining allegations contained in paragraph
4 1.2 of the Complaint. American Seafoods Group, LLC, however, admits it is the sole
5 member of American Seafoods Company LLC.

6 1.3 Responding Defendants admit the allegations contained in paragraph 1.3 of
7 the Complaint.

8 1.4 Responding Defendants deny that American Seafoods (as defined in the
9 Complaint) owns fishing vessels, but admit that Katie Ann, LLC owns one such vessel.
10 Responding Defendants also deny that Katie Ann, LLC, or American Seafoods Group, LLC
11 operates or manages any commercial fishing vessels, but admits that American Seafoods
12 Company LLC operates and manages several commercial fishing vessels.

13 1.5 Responding Defendants deny the allegations contained in paragraph 1.5 of the
14 Complaint.

15 1.6 Answering paragraph 1.6 of the Complaint, Responding Defendants deny that
16 American Seafoods Company LLC owns the F/T KATIE ANN, but admits that it operates
17 and manages that vessel.

18 1.7 Responding Defendants admit that Plaintiff complained of a groin injury
19 while in service to the vessel but deny the remaining allegations set forth in paragraph 1.7 of
20 the Complaint. American Seafoods Group, LLC is not a proper party to this Complaint, and
21 does not have sufficient information to affirm or deny these allegations and therefore denies
22 the same. Moreover, American Seafoods Group, LLC does not have sufficient information
23

1 to affirm or deny any of the allegations set forth in paragraphs 3.1 through 5.10 of the
2 Complaint and therefore denies the same.

3 1.8. The allegations contained in paragraph 1.8 of the Complaint are allegations
4 for the attention of the Court and do not require an answer.

5 1.9 The allegations contained in paragraph 1.9 of the Complaint are allegations
6 for the attention of the Court and do not require an answer.

7 Responding Defendants, however, stipulate to both Jurisdiction and Venue.

8 **II. PARTIES**

9 2.1 Answering paragraph 2.1 of the Complaint, American Seafoods Company
10 LLC, and Katie Ann, LLC, admit that Plaintiff was a seaman whose last contract ended on
11 October 19, 2015. Responding Defendants deny each and every remaining allegation in this
12 paragraph of the Complaint. Furthermore, American Seafoods Group, LLC is not a proper
13 party to this Complaint, and does not have sufficient information to affirm or deny these
14 allegations and therefore denies the same.

15 2.2 Answering paragraph 2.2 of the Complaint, American Seafoods Company
16 LLC denies that it is a “Washington Corporation” per se, and refer Plaintiff’s counsel to the
17 allegations set forth in paragraph 1.2 of the Complaint, which more accurately describes that
18 company’s status. Nevertheless, American Seafoods Company LLC admits the remaining
19 allegations contained in paragraph 2.2.

20 2.3 Answering paragraph 2.3 of the Complaint, Katie Ann, LLC denies that it is a
21 “Washington Corporation” per se, and refer Plaintiff’s counsel to the allegations set forth in
22 paragraph 1.4 of the Complaint, which more accurately describes that company’s status.
23 Katie Ann, LLC admits only that the vessel it owns is engaged in the business of commercial

1 fisheries in Northwest waters. All other allegations set forth in this paragraph are specifically
2 denied.

3 2.4 Answering Paragraph 2.4 of the Complaint, American Seafoods Company
4 LLC denies that it owns the F/T KATIE ANN, but admits that it manages and operates the
5 vessel. Katie Ann, LLC admits it owns the vessel, but denies that it manages or operates her.

6
7 **III. FACTS**

8 3.1 Responding Defendants re-allege their answers to paragraphs 1.1 through 2.4
9 of the Complaint, as set forth above.

10 3.2 American Seafoods Company LLC admits that from October 2, 2015 through
11 October 19, 2015, Plaintiff was employed as a seaman aboard the F/T KATIE ANN,
12 occasionally working as a line processor. American Seafoods Company LLC denies every
13 other allegation contained in this paragraph.

14 3.3 American Seafoods Company LLC admits the allegations contained in
15 paragraphs 3.3 of the Complaint.

16 3.4 Answering paragraph 3.4 of the Complaint, American Seafoods Company
17 LLC admits it operated the F/T KATIE ANN. As repeatedly stated above, this company did
18 not own the vessel.

19 3.5 Responding Defendants deny the allegations contained in paragraph 3.5 of the
20 Complaint. Plaintiff suffered from Graves disease.

21 3.6 Responding Defendants do not have sufficient information to determine the
22 truth or falsity of the allegations in paragraph 3.6 of the Complaint and therefore deny the
23 same.

1 3.7 Responding Defendants deny the allegations set forth in paragraph 3.7 of the
2 Complaint.

3 3.8 Responding Defendants deny the allegations set forth in paragraph 3.8 of the
4 Complaint.

5 3.9 Responding Defendants deny the allegations set forth in paragraph 3.9 of the
6 Complaint.

7 3.10 Responding Defendants deny the allegations set forth in paragraph 3.10 of the
8 Complaint.

9 3.11 Responding Defendants deny the allegations set forth in paragraph 3.11 of the
10 Complaint.

11 3.12 Responding Defendants deny the allegations set forth in paragraph 3.12 of the
12 Complaint.

13 3.13 Responding Defendants deny the allegations set forth in paragraph 3.13 of the
14 Complaint.

15 3.14 Responding Defendants deny the allegations set forth in paragraph 3.14 of the
16 Complaint.

17 3.15 Responding Defendants deny the allegations set forth in paragraph 3.15 of the
18 Complaint.

19 3.16 Responding Defendants deny the allegations set forth in paragraph 3.16 of the
20 Complaint.

21 3.17 Responding Defendants deny the allegations set forth in paragraph 3.17 of the
22 Complaint.
23

1 3.18 Responding Defendants deny the allegations set forth in paragraph 3.18 of the
2 Complaint.

3 3.19 Responding Defendants admit the allegations set forth in paragraph 3.19 of
4 the Complaint.

5 3.20 Answering paragraph 3.20 of the Complaint, Responding Defendants deny the
6 F/T KATIE ANN was “travelling,” but admit she was fishing in the Bering Sea.

7 3.21 Responding Defendants admit the allegations contained in paragraph 3.21 of
8 the Complaint.

9 3.22 Answering paragraph 3.22 of the Complaint, Responding Defendants aver that
10 the Iliuliuk Family and Health Services chart note speaks for itself. All other allegations are
11 specifically denied.

12 3.23 Answering paragraph 3.23 of the Complaint, Responding Defendants only
13 admit that Plaintiff was transported back to Seattle. All other allegations are specifically
14 denied.

15 3.24 Answering paragraph 3.24 of the Complaint, Responding Defendants aver that
16 the Swedish Ballard Emergency Room chart note speaks for itself. All other allegations are
17 specifically denied.

18 3.25 Responding Defendants deny the allegations contained in paragraph 3.25 of
19 the Complaint. These allegations misrepresent the overall medical treatment Plaintiff
20 received that day.

21 3.26 Responding Defendants deny the allegations in paragraph 3.26 of the
22 Complaint.
23

1 3.27 Responding Defendants deny the allegations in paragraph 3.27 of the
2 Complaint.

3 3.28 Answering paragraph 3.28 of the Complaint, although Dr. Evans' chart note
4 speaks for itself, Responding Defendants deny that Dr. Evans' allegations are true.

5 3.29 Answering paragraph 3.29 of the Complaint, although Dr. Evans' chart note
6 speaks for itself, Responding Defendants deny that Dr. Evans' allegations are true.

7 3.30 Responding Defendants deny the allegations in paragraph 3.30 of the
8 Complaint.

9 3.31 Responding Defendants deny the allegations in paragraph 3.31 of the
10 Complaint.

11 3.32 Responding Defendants deny the allegations in paragraph 3.32 of the
12 Complaint.

13 3.33 Responding Defendants deny the allegations in paragraph 3.33 of the
14 Complaint.

15 3.34 Responding Defendants deny the allegations in paragraph 3.34 of the
16 Complaint.

17 3.35 Responding Defendants deny the allegations in paragraph 3.35 of the
18 Complaint.

19 3.36 Responding Defendants deny the allegations in paragraph 3.36 of the
20 Complaint.

21 **IV. FIRST CAUSE OF ACTION: JONES ACT NEGLIGENCE, 46 USC § 301**

22 4.1 Responding Defendants re-allege their answers to paragraphs 1.1 through 3.36
23 of the Complaint, as set forth above.

1 4.2 Answering paragraph 4.2 of the Complaint, Responding Defendants admit
2 only that at very specific times, Plaintiff was employed as a seaman by Defendant American
3 Seafoods Company LLC.

4 4.3 Responding Defendants deny the allegations in paragraph 4.3 of the
5 Complaint.

6 4.4 Responding Defendants deny the allegations in paragraph 4.4 of the
7 Complaint.

8 4.5 Responding Defendants deny the allegations in paragraph 4.5 of the
9 Complaint.

10 4.6 Responding Defendants deny the allegations in paragraph 4.6 of the
11 Complaint.

12 4.7 Responding Defendants deny the allegations in paragraph 4.7 of the
13 Complaint.

14 **V. PLAINTIFF'S SECOND CAUSE OF ACTION: UNSEAWORTHINESS**

15 5.1 Responding Defendants re-allege their answers to paragraphs 1.1 through 4.7
16 of the Complaint, as set forth above.

17 5.2 Answering paragraph 5.2 of the Complaint, Responding Defendants admit
18 only that at very specific times, Plaintiff was employed as a seaman by Defendant American
19 Seafoods Company LLC.

20 5.3 Responding Defendants deny the allegations in paragraph 5.3 of the
21 Complaint.

22 5.4 Responding Defendants deny the allegations in paragraph 5.4 of the
23 Complaint.

1 5.5 Responding Defendants deny the allegations in paragraph 5.5 of the
2 Complaint.

3 5.6 Responding Defendants deny the allegations in paragraph 5.6 of the
4 Complaint.

5 5.7 Responding Defendants deny the allegations in paragraph 5.7 of the
6 Complaint.

7 5.8 Responding Defendants deny the allegations in paragraph 5.8 of the
8 Complaint.

9 5.9 Responding Defendants deny the allegations in paragraph 5.9 of the
10 Complaint.

11 5.10 Responding Defendants deny the allegations in paragraph 5.10 of the
12 Complaint.

13 **VI. REQUEST FOR RELIEF**

14 Answering paragraphs 6.1 through 6.4, Responding Defendants deny Plaintiff's
15 request for relief in its entirety. All allegations not specifically admitted herein are denied.

16 **AFFIRMATIVE DEFENSES**

17 BY WAY OF FURTHER ANSWER, Responding Defendants aver the following
18 affirmative defenses:

- 19 1. Plaintiff has failed to state a claim on which relief may be granted.
- 20 2. Plaintiff's injuries and/or damages are unrelated to his service to the F/T
- 21 KATIE ANN.
- 22 3. Plaintiff's injuries and/or damages are caused in whole or in part by the fault
- 23 of third parties over whom answering defendants had no control or right of control.

1 4. Plaintiff's injuries and/or damages in whole or in part are caused by an
2 underlying medical condition unrelated to Plaintiff's service aboard the F/T KATIE ANN.

3 5. Plaintiff has failed to mitigate his injuries, and/or his medical treatment and/or
4 his damages, if any.

5 6. Plaintiff failed to properly report his injuries aboard the F/T KATIE ANN.

6 7. American Seafoods Group, LLC is an improper party to this lawsuit and must
7 be dismissed.

8 8. Plaintiff's injuries and/or damages were caused by his own fault, and/or
9 negligence and/or failure of care.

10 9. Plaintiff's injuries and/or damages, if any, are the result of a preexisting
11 and/or subsequent condition and/or accidents and are not the responsibility of defendants.

12 10. Responding Defendants reserve the right to add other affirmative defenses and
13 counterclaims as discovery progresses.

14 WHEREFORE, having fully answered Plaintiff's Complaint for Damages and having
15 asserted affirmative defenses, Responding Defendants now pray as follows:

16 1. That Plaintiff's Complaint be dismissed with prejudice and Plaintiff take
17 nothing thereby;

18 2. That Responding Defendants' costs and reasonable attorney fees be awarded
19 and/or taxed against Plaintiff; and

20 3. For such other and further relief as the Court deems equitable and/or just.
21
22
23

1 DATED this 19th day of November, 2018.

2
3 LE GROS BUCHANAN & PAUL

4
5 By: s/ Eric R. McVittie

6 Eric R. McVittie, WSBA #20538

7 4025 Delridge Way SW, Suite 500

8 Seattle, WA 98106-1271

9 Phone: (206) 623-4990 | Fax: (206) 467-4828

10 Email: emcvittie@legros.com

11 Attorneys for Defendants American Seafoods
12 Company LLC, Katie Ann, LLC and American
13 Seafoods Group
14
15
16
17
18
19
20
21
22
23

DEFENDANTS' ANSWER TO PLAINTIFF'S COMPLAINT

FOR DAMAGES - Page 11

Civil Action No. 2:18-cv-01499 JCC

{28513-00457717;1}

LE GROS BUCHANAN
& PAUL

4025 DELRIDGE WAY SW
SUITE 500

SEATTLE, WASHINGTON 98106-1271
(206) 623-4990

CERTIFICATE OF SERVICE

I hereby certify that on November 19, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to The Honorable John C. Coughenour, and serve it on all associated counsel.

Jeffery M. Campiche
Jacqueline Hackler
CAMPICHE ARNOLD PLLC
1201 Third Avenue, Suite 3810
Seattle WA 98101
Attorneys for Plaintiff

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signed at Seattle, Washington this 19th day of November, 2018.

s/ Sheila Baskins

Sheila Baskins, Legal Assistant
LeGros Buchanan & Paul
4025 Delridge Way SW, Suite 500
Seattle, Washington 98106-1271
Telephone: 206-623-4990
Facsimile: 206-467-4828
E-mail: sbaskins@legros.com